

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTHONY MILLER, #1362672,	§	
	§	
Petitioner,	§	
v.	§	Civil Action No. 3:07-CV-0708-L
	§	
NATHANIEL QUARTERMAN, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

ORDER

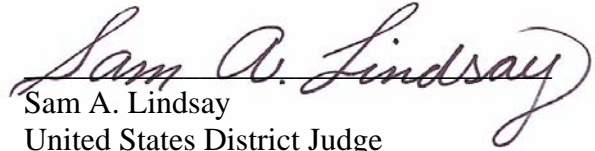
Before the court are the Findings, Conclusions and Recommendations of the United States Magistrate Judge, entered August 20, 2007. No objections to the magistrate judge's findings and conclusions were filed.

Miller filed a *Rhines-v.-Weber* Motion to Stop AEDPA One-Year Time Clock on April 23, 2007. Magistrate Judge Wm. F. Sanderson, Jr. found that the court lacked jurisdiction to consider the motion because though the motion anticipates filing a petition of habeas corpus pursuant to 28 USC § 2254, no petition has yet been filed. The magistrate judge found *Rhines v. Weber*, 544 U.S. 269 (2005), distinguishable and determined that the court could not construe the motion as a habeas petition. Because Miller has not filed a habeas petition, the magistrate judge concluded that there is no case or controversy pending before the court.

Having reviewed the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. The court

therefore **denies without prejudice** Miller's Rhines-v.-Weber Motion to Stop AEDPA One-Year Time Clock for lack of jurisdiction.

It is so ordered this 27th day of September, 2007.


Sam A. Lindsay
United States District Judge